Supreme Court, U.S.
FILED
OCT 15 1985
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

No. 85-79 (2)

DOUGLAS TOLAND ..... *Petitioner*

vs.

STATE OF ARKANSAS ..... *Respondent*

BEST AVAILABLE COPY

ON PETITION FOR WRIT OF CERTIORARI TO THE ARKANSAS SUPREME COURT

RESPONDENT STATE OF ARKANSAS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE ARKANSAS SUPREME COURT

JOHN STEVEN CLARK
Attorney General of Arkansas
JUSTICE BUILDING
LITTLE ROCK, ARKANSAS 72201
(501) 371-2007
Attorney for Respondent

Arkansas Legal Publishers - 500 E. Markham #219 - Little Rock, AR 72201

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

No. 85-79

DOUGLAS TOLAND ..... *Petitioner*

vs.

STATE OF ARKANSAS ..... *Respondent*

ON PETITION FOR WRIT OF CERTIORARI TO THE ARKANSAS SUPREME COURT

RESPONDENT STATE OF ARKANSAS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE ARKANSAS SUPREME COURT

REASONS FOR DENYING THE PETITION FOR CERTIORARI

I.

THERE IS AN ADEQUATE AND INDEPENDENT STATE GROUND WHICH SUPPORTS PETITIONER'S CONVICTION.

This Honorable Court should deny petitioner's petition for a writ of certiorari because there is an adequate and independent state ground which supports petitioner's conviction. It is well-established that this Court will not review a state court decision that rests on separate, adequate and independent state grounds. *See Michigan* v. *Long*, 463 U.S. 1032 (1983). In the instant case, the Arkansas Supreme Court decided, as a matter of state law, that petitioner had no reasonable expectation of privacy in his outdoor marijuana plots. *See* page three of the appendix to petitioner's petition. Petitioner's lack of a reasonable expectation of privacy is an adequate basis for his conviction and is entirely separate from the alleged deficiencies in the search warrant petitioner complains of.

CONCLUSION

THEREFORE, respondent respectfully requests that this Honorable Court deny petitioner's petition for a writ of certiorari to the Supreme Court of Arkansas.

Respectfully submitted,

JOHN STEVEN CLARK
Attorney General of Arkansas
JUSTICE BUILDING
LITTLE ROCK, ARKANSAS 72201
(501) 371-2007
Attorney for Respondent